



# COMMISSION NEWS

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ARIZONA CORPORATION COMMISSION, 1200 W. WASHINGTON, PHOENIX, AZ 85007

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TO: EDITORS, NEWS DIRECTORS  
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## **COMMISSION CLAMPS DOWN ON UNREGISTERED SECURITIES SALES, OBTAINS RESOLUTION AND SETTLEMENT FOR RETIRED COUPLE**

PHOENIX – The Arizona Corporation Commission entered into three consent orders with individuals and companies who agreed to return a total of over \$1.8 million to investors and to pay \$82,500 in penalties. All three cases involved the offer and sale of unregistered securities, including promissory notes and investment contracts that involved pay telephones and interests in limited liability companies. In a fourth order, the Commission approved an agreement with a Scottsdale registered securities salesman that resulted in the return of \$95,000 to a retired Arizona couple.

### **InterSecurities, Inc., et al.**

InterSecurities, Inc., a Florida-based securities dealer, consented to a Commission order imposing a \$50,000 penalty for failing to reasonably supervise a former salesman who sold unregistered pay telephone contracts. This order resolves the regulatory issues raised by the Securities Division without InterSecurities admitting or denying specific facts or conclusions.

As part of the order, InterSecurities agreed to implement a claims procedure to evaluate and resolve remaining claims of investors who purchased the pay telephone contracts. The company also agreed to undertake additional measures to ensure that its salespeople do not engage in outside business activities involving the sale of unregistered securities.

The Commission found that InterSecurities approved requests by one of its registered salesmen, Gregory R.

Brown of Phoenix, to sell pay telephone contracts. Brown sold contracts in ETS Payphones, Phoenix Telecom, and Alpha Telcom, Inc., as “outside business activity.” During the time of Brown’s sales activity, several states had determined that these pay telephone contracts were securities. Around August 2000, InterSecurities instructed Brown to stop selling telephone leasing or pay telephone “arrangements” for any company.

In a June 2004 Commission order, Brown agreed to forfeit his securities salesman registration, to pay a \$7,500 penalty and to repay \$230,000 in commissions earned in the sale of the pay telephone contracts. To date, InterSecurities has agreed to pay over \$800,000 to Brown’s customers who have filed claims through the National Association of Securities Dealers’ arbitration process.

### **Rex E. Kuhn and Unity Financial Services, LLC**

Unity Financial Services, LLC and 39-year-old Rex E. Kuhn of Mesa consented to a Commission order requiring the return of over \$1.6 million to investors and the payment of a \$15,000 penalty. The Commission’s investigation found that Kuhn, through Unity Financial Services, sold unregistered promissory notes while making untrue statements or misleading omissions of material facts. Kuhn did not have a registration to offer or sell securities. The consent order resolves the matter, provided Kuhn follows through on restitution and pays his penalties, without requiring Kuhn to admit guilt. The order also prohibits Kuhn from denying specific findings of fact or conclusions of law.

Between 1999 and 2004, Kuhn and Unity Financial sold the promissory notes to approximately 26 investors, 17 of whom were Arizona residents primarily from the East Valley area. Kuhn’s family and friends were solicited to invest but the Commission found that Kuhn and Unity Financial were neither registered to sell securities in Arizona nor exempt from registration.

The Commission found that Kuhn and Unity Financial promised investors a guaranteed return of 10 to 40 percent per year on their investments. While stating that investor funds would be invested in the stock market, Kuhn extensively conducted day trading in their brokerage accounts, generally investing in options on margin.

The Commission found that Kuhn and Unity Financial consistently issued false statements to the investors,

indicating that their investments were preserved and that interest was accruing on each account. In fact, Kuhn had depleted the funds with poor investments and by using the money to support his personal expenses. Throughout the majority of the respondents' business activity, early investors received cash flow from new investors, and not from the sale of securities. Among other misrepresentations and omissions of fact, Kuhn failed to:

- Disclose his lack of experience in investing,
- Inform investors of the risk of speculative trading, and
- Advise investors that the promissory notes required registration.

Kuhn has already provided the Commission with a check for \$50,000 as payment to the defrauded investors and has agreed not to apply to the State of Arizona for registration as a securities dealer or salesman or for licensure as an investment adviser or investment adviser representative at any future time.

### **Helen C. Hartze and HCH Enterprise, LLC**

Helen C. Hartze, 40, a former licensed mortgage broker with Chandler-based HCH Enterprise, LLC, consented to a Commission order requiring the return of \$363,500 to investors and the payment of a \$17,500 penalty. Hartze and HCH Enterprise consented to the order while neither admitting nor denying the findings of fact or conclusions of law in the order.

The Commission found that Hartze and HCH Enterprise fraudulently sold unregistered securities which involved investments in limited liability companies.

From about October 2002 through January 2003, Hartze and HCH Enterprise offered and sold interests in the investment contracts to at least nine Arizona residents, raising approximately \$360,000. Hartze, however, was neither a registered securities salesperson nor was exempt from registration in Arizona.

The investment involved interests in two Arizona limited liability companies, Ashberry Apartments, LLC, and Williamsburg Apartments, LLC. These companies raised money from investors to fund loans purportedly secured by real estate.

Although the investors believed the investment would be secured by real estate, the final documents signed by the borrower and the trustee indicated that the investors' interests would not be recorded unless the borrower defaulted on the loans. The Commission found that HCH Enterprise and Hartze did not make investors aware that they had invested in a member-managed limited liability company, and were to operate the company, including recording their interest in the real property, if the borrower defaulted on the loans. The borrower defaulted on the loans and as a result, investors have not received a return of their investment.

Hartze agreed to give up her mortgage broker license and not reapply for five years from the date of the Commission's order.

### **Robert C. Frost**

The Commission approved a stipulation and agreement between the Division and registered securities salesman, 53-year-old Robert C. Frost of Scottsdale, dismissing all charges alleging he made unsuitable investment recommendations to a retired couple. The Commission's order was based upon the repayment of \$95,000 to the couple by Frost's employer, Morgan Stanley Dean Witter.

At issue in this case was whether the investors fully understood and agreed with Frost's long-term growth investment strategy and whether it was appropriate to restructure their portfolio to invest the bulk of their assets in growth mutual funds, given their history of investing in conservative, low-risk, income-producing investments.

### **Caution for Investors**

Before investing, people should verify the registration of sellers and investment opportunities and investigate disciplinary histories, by contacting the Arizona Corporation Commission's Securities Division at 602-542-4242 or toll free outside the Phoenix metropolitan area and Arizona at 1-866-VERIFY-9. The Division's investor education web site also has helpful information at **[www.azinvestor.gov](http://www.azinvestor.gov)**.

The Commission's orders against the named respondents will be posted to the Securities Division's website under Enforcement/Orders as soon as they are signed by all of the Commissioners. To access the full text of the Commission's orders, please check the website in a few days:

**<http://www.azinvestor.gov/enforcement/enforce-orders.asp>**

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